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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,688	02/25/2004	Thomas M. Zinsmeyer	60246-329	3006

  

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EXAMINER	
TRIEU, THERESA	

  

ART UNIT	PAPER NUMBER
3748	

  

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02/14/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/786,688

Applicant(s)

ZINSMEYER ET AL. CT

Examiner

Theresa Trieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This Office Action is responsive to the applicants' RCE filed on Dec. 7, 2007.

Claims 1, 9 and 12 have been amended. Claim 4 has been canceled. Accordingly, claims 1-3 and 5-17 are pending in this application.

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Dec. 7, 2007 has been entered.

#### ***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "wherein each of the choke orifice, the inlet orifice and the outlet orifice comprise a flow area smaller than any of the plurality of flow passages" recited in claims 1 and 12, " wherein the flow passage comprises larger flow area than any of said choke orifice, said inlet orifice and said outlet orifice" as recited in claim 9.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-3, 5, 6, 8 and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eto et al. (Eto) (Patent Number 5,411,385) in view of Libis (Patent Number 4,173,440).

Regarding claims 1-3, 5, 8 and 9, as shown in Fig. 2, Eto discloses a compressor assembly comprising: an inlet bearing 22f supplied with lubricant through an inlet orifice; an outlet bearing 22r supplied with lubricant through an outlet orifice; a rotating compressor member 7 supported for rotation on an inlet end by the inlet bearing and on an outlet end by the outlet bearing; a plurality of flow passages 19, 20 for supplying lubricant to the inlet and outlet orifices; and a choke orifice "Of" disposed in series with the inlet orifice for changing a lubricant flow rate to the inlet bearing 22f relative to a lubricant flow rate to the outlet bearing 22r from the outlet orifice; wherein the choke orifice comprise a flow area smaller than any of the plurality of flow passages; the inlet orifice and the outlet orifice are of a common size; the flow passages 19, 20 comprising a primary portion 30 feeding lubricant to an inlet portion and an outlet portion; a flow rate of lubricant to the inlet orifice is lower than a flow rate of lubricant to the outlet orifice; a portion of the flow passage comprising tubing mounted to the compressor.

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However, Eto fails to disclose a different size of the flow area between the inlet/outlet orifices and any of the plurality of flow passages.

Libis teaches that it is conventional in the compressor art to utilize each of the inlet and outlet orifices comprising a flow area smaller than any of the flow passages (see Fig. 2). With regard claims 6, 9 and 12, Libis discloses the compressor assembly comprises a screw compressor (2, 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized the different size of the flow area between the inlet/outlet orifices and any of the plurality of flow passages, as taught by Libis in the Eto apparatus, since the use thereof would have controlled flow rate.

Regarding 10, 11 and 13, Eto further discloses the inlet orifice and the outlet orifice are of a common size; the flow passages 19, 20 comprising a primary portion 30 feeding lubricant to an inlet portion and an outlet portion; a flow rate of lubricant within the inlet portion is lower than a flow rate of lubricant within the primary portion 30.

4. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eto in view of Libis as applied to claim 9 above, and further in view of Williams (Patent Number 3,260,444).

The modified Eto discloses the invention as recited above; however, the modified Eto fails to disclose a lube block.

Williams teaches that it is conventional in the art to utilize a lube block (not numbered; however, clearly seen in Fig. 8) defining a portion of the flow passage, wherein the choke orifice is disposed within the lube block. It would have been obvious to one having ordinary skill in the

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art at the time the invention was made, to have utilized the lube block, as taught by Williams in the modified Eto apparatus, since the use thereof would have covered the choke orifice.

5. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eto in view of Libis.

Eto discloses the invention as recited above; however, Eto fails to disclose three inlet/outlet bearing assemblies, and three inlet/outlet orifices. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to utilize three inlet/outlet bearing assemblies and three inlet/outlet orifices, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8 (see MPEP §2144.04).

6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eto in view of Libis

Eto discloses the invention as recited above; however, Eto fails to disclose range of the flow rate to the inlet bearing assemblies. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to utilize the lubricant flow rate to the inlet bearing assemblies is no more than 1/5<sup>th</sup> the lubricant flow rate to the outlet bearing assemblies, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 220F.2d 454,456, 105 USPQ 233, 235 (CCPA 1955) (see MPEP §2144.05).

### ***Conclusion***

7. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific

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distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

### *Communication*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TT  
February 7, 2008

/Theresa Trieu/  
Primary Examiner  
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